

Summary: Juvenile filed a motion for habeas corpus pursuant to 28 U.S.C. § 2241 asserting that he should receive credit for time served prior to the dispositional hearing as set forth in 28 U.S.C. § 3585(a). The Court granted the petition and directed the Bureau of Prisons to recalculate C.C.'s sentence and to apply any and all credit for time served which he would be due if sentenced as an adult.

Case Name: Juvenile, Male v. USA

Case Number: 1-07-cv-06

Docket Number: 9

Date Filed: 2/23/07

Nature of Suit: 530

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHWESTERN DIVISION

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|---------------------------|---|--------------------------------|
| C.C., |) | |
| |) | ORDER GRANTING PETITION |
| Petitioner, |) | FOR HABEAS RELIEF |
| |) | |
| vs. |) | |
| |) | Case No. 1:07-cv-006 |
| United States of America, |) | |
| |) | |
| Respondent. |) | |

Before the Court is the Petitioner's Motion for Habeas Corpus relief under 28 U.S.C. § 2241, filed on January 26, 2007. For the reasons set forth below, the petition is granted.

I. BACKGROUND

The petitioner, a juvenile ("C.C."), is a juvenile inmate currently confined to the custody of the Bureau of Prisons at the Southwest Multi-County Correctional Center in Dickinson, North

Dakota. In the District of South Dakota, C.C. was adjudicated delinquent upon his admission to an Information alleging involuntary manslaughter.¹

On January 19, 2006, in the District of South Dakota, C.C. was charged with one count of involuntary manslaughter and one count of the use of a firearm during a crime of violence. See Presentence Investigation Report (PSR) ¶. 1. A warrant was issued for C.C.'s arrest, and he was taken into custody on January 24, 2006. Id. On January 24, 2006, C.C. made his initial appearance and the Court ordered him detained. Id. On March 28, 2006, C.C. appeared for a bail review hearing, and the Court released C.C. pending his adjudication hearing. See PSR ¶ 2. C.C. was released with pretrial supervision and ordered to complete treatment at the Timberline Treatment Center in Spearfish, South Dakota. Id. However, C.C. did not successfully complete the treatment program and was discharged on May 26, 2006. C.C. was detained pending further proceedings. Id. On August 15, 2006, C.C. entered an admission to the involuntary manslaughter count. See PSR ¶ 3. C.C.'s detention was continued pending his dispositional hearing. On October 4, 2006, C.C. was sentenced to 12 months of detention in the custody of the Bureau of Prisons. Id. C.C. has a projected release date of October 3, 2007. See Docket No. 8-2. It appears that C.C. was held in custody for over six months, not including the approximate two months in treatment, prior to the juvenile dispositional hearing. If C.C. were given credit for his time in custody prior to the dispositional hearing, C.C.'s release date would be in early March of 2007.

On January 26, 2007, C.C. filed a motion pursuant to 28 U.S.C. § 2241 asserting that he should receive credit for time served prior to the dispositional hearing on October 4, 2006. C.C. contends that he should receive credit for time in custody prior to the dispositional hearing and relies

¹South Dakota file number 5:06-cr-500007-KES

primarily upon a recent Ninth Circuit case, Jonah R. v. Carmona, 446 F.3d 1000 (9th Cir. 2006), wherein the Ninth Circuit held that when Congress revised 18 U.S.C. § 3585 and the Federal Juvenile Delinquency Act in 1984, it intended for the BOP to continue to credit juveniles with time spent in pre-sentence custody. Court for the petitioner also relies on this Court's decision in D.P.S. v. United States, 456 F. Supp. 2d 1108 (D. N.D. 2006), appeal docketed, No. 07-1150 (8th Cir. Dec. 18, 2006) and subsequent unpublished decision from the District of Minnesota, A.C.H. v. United States, No. 06-SC-2262 JMR/FLN, 2006 WL 3487116 (D. Minn. Nov. 28, 2006). The Government argues that there is no statutory basis for granting juveniles credit for time served and that the Bureau of Prisons is the sole entity with the authority to calculate federal terms of imprisonment.

II. LEGAL DISCUSSION

The Court recently ruled on this identical issue in D.P.S. v. United States, 456 F. Supp. 2d 1108 (D. N.D. 2006), appeal docketed, No. 07-1150 (8th Cir. Dec. 18, 2006). In its prior decision, this Court thoroughly analyzed the applicability of prior case law and found that “the Ninth Circuit’s decision in Jonah R. v. Carmona, 446 F.3d 1000, 1002 (9th Cir. 2006), and Judge Kornmann’s decision in J.P.C. (JUV) v. United States, Docket No. 05-3037 (D. S.D. May 1, 2006), to be persuasive and logical extensions of the doctrines set forth by the Eighth Circuit in United States v. K.R.A., 337 F.3d 970, 974 (8th Cir. 2003), and the United States Supreme Court in United States v. R.L.C., 503 U.S. 291 (1992).” See D.P.S. v. United States, 456 F. Supp. 2d 1108, 1114 (D. N.D. 2006) appeal docketed, No. 07-1150 (8th Cir. Dec. 18, 2006). The Court finds it unnecessary to repeat that discussion here.

In D.P.S., the Court concluded as follows:

The Government's argument that 18 U.S.C. § 3585 does not apply to juveniles is an untenable and unreasonable interpretation of that statute and contrary to Congressional intent. As the Ninth Circuit noted, the lack of an amendment to 18 U.S.C. § 3585 at the time Congress amended 18 U.S.C. § 3624 (good time credit) is clearly explained by the simple fact that at the time of the amendments, the Bureau of Prisons had interpreted 18 U.S.C. § 3585 to apply to juveniles and was giving juveniles credit for time served. See Jonah R. v. Carmona, 446 F.3d 1000, 1010 (9th Cir. 2006). Further, adopting the Government's interpretation of 18 U.S.C. § 3585 contradicts the Federal Juvenile Delinquency Act's purpose of encouraging treatment and the rehabilitation of juveniles and controlling precedent which dictates that juveniles should not be treated more harshly than adults. See United States v. R.L.C., 503 U.S. 291 (1992); United States v. K.R.A., 337 F.3d 970, 974 (8th Cir. 2003).

See D.P.S. v. United States, 456 F. Supp. 2d 1108, 1114-1115 (D. N.D. 2006) appeal docketed, No. 07-1150 (8th Cir. Dec. 18, 2006). Since the Court's decision in D.P.S., a district court in the District of Minnesota has also examined this issue and concluded that a juvenile should receive credit for the time served awaiting a dispositional hearing for a probation violation. See A.C.H. v. United States, No. 06-SC-2262 JMR/FLN, 2006 WL 3487116 (D. Minn. Nov. 28, 2006).

After carefully reviewing the entire record, the Court finds no reason to reach a conclusion contrary to that of the D.P.S. case. Thus, the Court finds that 18 U.S.C. § 3585 applies to juvenile offenders and that there is no basis in either law or policy, nor any legitimate reason, to treat a juvenile any different than an adult with respect to receiving credit for time served while awaiting sentencing or disposition. Further, the Court reiterates its recommendation that the Bureau of Prisons implement a more fair, reasonable, consistent, and common-sense policy and approach to this troublesome issue. There remains a need for a different policy and approach on a nationwide basis rather than continued adherence to an inherently unreasonable and unfair policy which effectively treats juveniles far more harshly than adults.

III. CONCLUSION

The Court **GRANTS** C.C.'s Motion for Habeas Corpus relief under 28 U.S.C. § 2241. (Docket No. 1). The Bureau of Prisons is directed to recalculate C.C.'s sentence and to apply any and all credit for time served which he would be due if sentenced as an adult.

IT IS SO ORDERED.

Dated this 23rd day of February, 2007.

/s/ Daniel L. Hovland

Daniel L. Hovland, Chief Judge
United States District Court